



Commonwealth of Massachusetts State Ethics Commission

One Ashburton Place, Room 619, Boston, MA, 02108
phone: 617-727-0060, fax: 617-723-5851



SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 551

IN THE MATTER OF FRANCIS H. BEAUDRY

DISPOSITION AGREEMENT

The State Ethics Commission ("Commission") and Francis Beaudry ("Beaudry") enter into this Disposition Agreement ("Agreement") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On November 8, 1994, the Commission initiated, pursuant to G.L. c. 268B, §4(j), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Beaudry. The Commission has concluded its inquiry and, on February 14, 1996, found reasonable cause to believe that Beaudry violated G.L. c. 268A, §19.

The Commission and Beaudry now agree to the following findings of fact and conclusions of law:

1. Beaudry has been an elected member of the Warren Board of Selectmen (the "Board") since May 1993. As such, Beaudry is a municipal employee as that term is defined in G.L. c. 268A, §1.
2. The Board has jurisdiction over wage and personnel issues affecting town employees.
3. Joseph O'Keefe ("O'Keefe") is Beaudry's wife's brother. O'Keefe has been a Warren Cemetery Department employee since 1992 as a laborer.
4. During a Board meeting on September 20, 1993, the Board reviewed a list of proposed hourly wage increases for various town positions, including O'Keefe's position with the Cemetery Department.^{1/} The proposed figures were to be submitted for approval at the Special Town Meeting which was to take place on September 21, 1993. Beaudry pointed out that Cemetery Department hourly rates appeared low in comparison to rates for other town positions. Beaudry acted as a selectman when he made this comment.
5. As a result of Beaudry's input, the other two selectmen revised the figures for the Cemetery Department.^{2/} Beaudry did not participate in the revision of the figures. The Board considered the revised list on September 21, 1993. The Board reached a general consensus to submit the list to Town Meeting for approval. Beaudry joined in this consensus.
6. When he made his comment at the September 20, 1993 Board meeting, Beaudry was aware that his brother-in-law was a Cemetery Department employee.
7. The Town Meeting eventually approved all the increases proposed by the Board. Subsequently, the wage increases were adopted by the Board of Cemetery Commissioners.^{3/}
8. General Law c. 268A, §19, in pertinent part, prohibits a municipal employee from participating as such in a particular matter^{4/} in which to his knowledge a member of his immediate family has a financial interest.
9. The decision to submit a list of hourly wage increases to Town Meeting was a particular matter.

10. Beaudry participated^{2/} in that particular matter by pointing out that the Cemetery Department wages seemed low in comparison to other department wages, and by joining in the final consensus to submit the proposed list to Town Meeting.

11. Beaudry's brother-in-law, Beaudry's wife's brother, was an immediate family member.^{6/}

12. Beaudry's brother-in-law had an obvious financial interest in any salary increase for the position of Cemetery Department laborer.

13. Beaudry was aware of his brother's-in-law financial interest in these matters.

14. Therefore, by acting as described above, Beaudry participated as a Board of Selectmen member in a particular matter in which to his knowledge an immediate family member had a financial interest, thereby violating §19.

15. Beaudry cooperated with the Commission's investigation.

In view of the foregoing violation of G.L. c. 268A by Beaudry, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Beaudry:

(1) that Beaudry pay to the Commission the sum of five hundred dollars (\$500) as a civil penalty for violating G.L. c. 268A, §19; and

(2) that Beaudry waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: April 3, 1996

^{1/} The cemetery positions were three of fifteen positions which were considered for salary adjustments.

^{2/} The first figures suggested an hourly wage increase for the position of laborer from \$6.50 an hour to \$7.00 an hour. After the figures were revised, the wage was increased to \$8.00.

^{3/} Beaudry is a member of the Board of Cemetery Commissioners. He abstained from participation in this matter.

^{4/} "Particular matter," any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, §1(k).

^{5/} "Participate," participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, §1(j).

^{6/} "Immediate family," the employee and his spouse, and their parents, children, brothers and sisters. G.L. c. 268A, §1(e).